



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0459; FRL-10025-49-Region 4]

Air Plan Approval; FL; Prevention of Significant Deterioration Infrastructure Elements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP), Division of Air Resources Management, to EPA on August 26, 2020. The Clean Air Act (CAA or Act) requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each national ambient air quality standard (NAAQS) promulgated by EPA, commonly referred to as an “infrastructure SIP.” This submission addresses certain greenhouse gas (GHG) Prevention of Significant Deterioration (PSD) permitting requirements for the 2008 and 1997 8-hour Ozone and the 1997 Annual and 2006 24-hour Fine Particulate Matter (PM_{2.5}) NAAQS. Additionally, EPA is converting the previous disapprovals of Florida’s infrastructure SIPs related to the CAA GHG PSD permitting requirements for the above NAAQS to full approvals.

DATES: This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0459. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9144. Ms. Williams can also be reached via electronic mail at williams.pearlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were previously required to submit such SIPs for the 2008 and 1997 8-hour Ozone and the 1997 Annual and 2006 24-hour PM_{2.5} NAAQS to EPA within three years of promulgation of the respective NAAQS.

Through previous rulemakings, EPA disapproved portions of several SIP submissions from Florida regarding the 2008 and 1997 8-hour Ozone, as well as the 1997 Annual and 2006 24-hour PM_{2.5} NAAQS, because at the time, Florida's SIP did not address or provide adequate

legal authority for the implementation of a GHG PSD program in Florida.¹ However, on May 19, 2014 (79 FR 28607), EPA approved Florida's December 19, 2013, SIP revision that amended the State's definition of "PSD pollutant". This Florida SIP revision addressed the Federal GHG requirements for PSD as specified in the June 3, 2010, GHG Tailoring Rule.²

On August 6, 2020, Florida submitted a SIP revision to approve various infrastructure SIP elements that were previously disapproved by EPA. The submittal requested approval for the following elements from the 1997 and 2008 Ozone NAAQS and the 1997 and 2006 PM_{2.5} NAAQS as it relates to Florida's regulation of greenhouse gases under the PSD program: 1). Sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) Prong 3, and 110(a)(2)(J) infrastructure elements for Florida's 2008 Ozone Infrastructure SIP; 2). Sections 110(a)(2)(C) and 110(a)(2)(J) infrastructure elements for Florida's 1997 Ozone Infrastructure SIP; 3). Section 110(a)(2)(D)(i)(II) Prong 3 infrastructure elements for Florida's 2006 PM_{2.5} Infrastructure SIP; and 4). Section 110(a)(2)(D)(i)(II) Prong 3 infrastructure elements for Florida's 1997 PM_{2.5} Infrastructure SIP. This action only pertains to sections 110(a)(2)(C), (D)(i)(II), and (J) as they relate to GHG under a SIP-approved PSD permitting program.

Thus, in a notice of proposed rulemaking (NPRM) published on March 2, 2021, (86 FR 12143), EPA proposed to determine that Florida's SIP and practices are adequate for GHG PSD permitting of major sources and major modifications related to the 2008 8-hour Ozone NAAQS for sections 110(a)(2)(C), (D)(i) (prong 3), and (J); the 1997 8-hour Ozone NAAQS for sections 110(a)(2)(C) and (J); and the 1997 Annual and 2006 24-hour PM_{2.5} NAAQS for section 110(a)(2)(D)(i)(ii) prong 3. Consequently, EPA proposed to convert the previous disapprovals of Florida's infrastructure SIPs related to the CAA GHG PSD permitting requirements for the

¹ EPA partially disapproved the 1997 8-hour Ozone infrastructure SIP to the extent that it relied on the GHG PSD permitting requirements to meet the 110(a)(2)(C) and 110(a)(2)(j) requirements; see 77 FR 44485 (July 30, 2012). EPA disapproved the State's prong 3 of section 110(a)(2)(D)(i) as it relates to GHG PSD permitting requirements for the 1997 and 2006 Fine Particulate Matter NAAQS, See 78 FR 19998 (April 3, 2013). EPA also disapproved section 110(a)(2)(D)(i)(II) concerning visibility requirements; and the portions of sections 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) related to the regulation of GHG emissions for the 2008 8-hour Ozone NAAQS, See 78 FR 65559 (November 1, 2013).

² 75 FR 31514

2008 and 1997 8-hour Ozone and the 1997 Annual and 2006 24-hour PM_{2.5} NAAQS to full approvals. The March 2, 2021, NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the March 2, 2021, NPRM were due on or before April 1, 2021. EPA received no comments on the March 2, 2021, NPRM.

II. Final Action

EPA is approving revisions to the Florida SIP, submitted on August 26, 2020, related to sections 110(a)(2)(C), (D)(i) (prong 3), and (J) as they relate to new major sources and major modifications in areas of the State designated attainment or unclassifiable. EPA has made the determination that Florida's SIP and practices are adequate for GHG PSD permitting of major sources and major modifications related to the 2008 8-hour Ozone NAAQS for sections 110(a)(2)(C), (D)(i) (prong 3), and (J); the 1997 8-hour Ozone NAAQS for sections 110(a)(2)(C) and (J); and the 1997 Annual and 2006 24-hour PM_{2.5} NAAQS for section 110(a)(2)(D)(i)(ii) prong 3. Consequently, EPA is converting the previous disapprovals of Florida's infrastructure SIPs related to the CAA GHG PSD permitting requirements for the 2008 and 1997 8-hour Ozone and the 1997 Annual and 2006 24-hour PM_{2.5} NAAQS to full approvals.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, Reporting and recordkeeping requirements and Volatile organic compounds.

Dated: June 28, 2021.

John Blevins,
Acting Regional Administrator,
Region 4.

For the reason stated in the preamble, the EPA amends 40 CFR parts 52 as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K – Florida

2. Section 52.520(e) is amended by adding four new entries for “110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards,” “110(a)(1) and (2) Infrastructure Requirements for the 1997 Annual Fine Particulate Matter National Ambient Air Quality Standards,” “110(a)(1) and (2) Infrastructure Requirements for the 2006 24-hour Fine Particulate Matter National Ambient Air Quality Standards,” and “110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards” at the end of the table to read as follows:

§ 52.520 Identification of plan.

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(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
**	**	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards	8/26/2020	[Insert date of Publication in FEDERAL REGISTER]	[Insert citation of publication]	Approving SIP submission for sections 110(a)(2)(C) & 110(a)(2)(J) as it relates to GHG PSD permitting requirements.
110(a)(1) and (2) Infrastructure Requirements for the 1997 Annual Fine Particulate Matter National Ambient Air Quality Standards	8/26/2020	[Insert date of Publication in FEDERAL REGISTER]	[Insert citation of publication]	Approving SIP submission for prong 3 of section 110(a)(2)(D)(i) as it relates to GHG PSD permitting requirements.

110(a)(1) and (2) Infrastructure Requirements for the 2006 24-hour Fine Particulate Matter National Ambient Air Quality Standards	8/26/2020	[Insert date of Publication in FEDERAL REGISTER]	[Insert citation of publication]	Approving SIP submission for prong 3 of section 110(a)(2)(D)(i) as it relates to GHG PSD permitting requirements.
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards	8/26/2020	[Insert date of Publication in FEDERAL REGISTER]	[Insert citation of publication]	Approving SIP submission for section 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) as it relates to the regulation of GHG emissions.

§ 52.522 [Amended]

3. Section 52.522 is amended by removing and reserving paragraph (b).

§ 52.523 [Removed and Reserved]

4. Remove and reserve § 52.523.

[FR Doc. 2021-14176 Filed: 7/6/2021 8:45 am; Publication Date: 7/7/2021]